IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MRS JUSTICE T.MEENA KUMARI
WRIT PETITION NO : 5278 of 1995

Between:
G.Shantamma @ Shanti W/o. Govindarajulu
Veeraka Nellore (V), Gangadhara Nellore (M),
Chittoor Dist.

..... PETITIONER

AND

1 State of A.P. rep.by its Secretary to Govt. Revenue Dept.
Secretariat Hyderabad
2 The Commissioner of Land Revenue Hyderabad A.P.
3 TheJoint Collector, Chittoor
4 Mandal Revenue Officer, Gangadhara Nellore (M), Chittoor
5 G.Suseelamma W/o. Anjaneyulu Naidu
r/o. Petanatham (v), H/o. Veeraka Nellore,
G.D.Nellore (M), Chittoor Dist.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction especially in the nature of a writ, of Mandamus declaring the proceedings of the Govt. in G.O.Ms.No.100 Revenue (Assignments IV) Dept., dated: 10/3/1995 as illegal, arbitrary and unsustainable.

Counsel for the Petitioner: MR.M.VENKATA RAMANA REDDY

Counsel for the Respondent No.1 to 4: GP for Revenue

Counsel for the Respondent No.5: MR.S.V.MUNI REDDY

The Court made the following:

ORDER:

This Writ Petition is filed to declare the impugned proceedings in G.O. Ms. No. 100 Revenue (Assignments IV) Department, dated 01.03.1995 as illegal, arbitrary and unsustainable.

The case of the petitioner, in brief, is that she is a landless poor harijan and wife of an Army Jawan. The petitioner applied for assignment of land from the Government poramboke in the year 1984, to an extent of Ac.4.56 cents in Survey No. 25/3 of Veeraka Nellore Village, was originally assigned to one Sri Jagannatha Chetty in DKT 1393/4/94 dated 20.03.1965. The assignee in violation to assignment rules and conditions had conveyed the land by registered sale deed dated 31.01.1972 in favour of 5th respondent. The then Thasildar conducted a detailed enquiry and after following the due procedure of law cancelled DKT patta. The Revenue authorities assigned the land admeasuring A.4.56cents to the petitioner vide proceedings DKt No.140/1394 dated 31.03.1985 and given possession. On appeal before the Revenue Divisional Officer by fifth respondent, the matter was remanded to Mandal Revenue Officer for a de-novo enquiry and on appeal to the Joint Collector, Chittoor also remanded the matter. Against which a revision was preferred to the Commissioner of Land Revenue, Hyderabad and in the revision it is mentioned that 5th respondent is not a landless poor. Therefore, the matter was carried by 5th respondent to the Government by way of revision and the order of the Commissioner of Land Revenue, Hyderabad was set aside and remanded the matter. The proceedings of the Government upheld by a single Judge of this Court in W.P. No. 16377 of 1994. Then preferred

W.A. No. 1159 of 1994 in which it was ordered by a Division Bench of this Court to conduct de-novo enquiry after issuing notices and complete hearing within two weeks. But the Government did not comply with the said orders. Hence, this Writ Petition.

A counter affidavit has been filed on behalf of the respondents denying the averments made in the Writ Petition.

Heard both sides. Considered the material on record.

It has been argued by the learned counsel appearing on behalf of the petitioner that on 20.03.1965, the land in question was originally assigned to one Jagannatha chetty. The said assignee sold the land to respondent No.5 on 31.01.1972. The Tahsildar cancelled the patta on 19.08.1984. The petitioner was assigned the said land on 30.06.1989. Aggrieved by the same 5th respondent has preferred an appeal before the Revenue Divisional Officer and the Revenue Divisional Officer remanded the matter to conduct de-novo enquiry. Aggrieved by the same, 5th respondent preferred appeal before the Joint Collector and Joint Collector ordered the appeal on 03.10.1990. Aggrieved by the same, a revision was filed before the Commissioner of Land Revenue and the said revision was allowed on 15.09.1993. Aggrieved by the same, 5th respondent preferred revision to the Government, but the Government has set aside the orders passed by the Commissioner of Land Revenue and remanded the matter to the Joint Collector, Chittoor. Aggrieved by the same, the petitioner preferred W.P. No.163 of 1994, which was dismissed and against which W.A. No. 1159 of 1994 was preferred and the same was allowed on 25.10.1994 setting aside the order of the learned single judge and directed the Government to conduct a fresh enquiry after hearing the parties. Accordingly, the Government has passed G.O. Ms. No. 100 Revenue holding that 5th respondent is bona fide purchaser and that there is no record of holding

of the land by 5th respondent. It is also further observed that the Mandal Revenue Officer who was present at the time of hearing and stated that the husband of the assignee owns only Ac.1.75 of land and the family belongs to small farmer category. Fifth respondent has also made expenditure for development of lands in question and is in possession of the lands right from the year 1972 and she is a bona fide purchaser. Recording the same, the Secretary to the Government remanded the matter to the Collector, Chittoor to consider her case for assignment of alternate land, based on the guidelines and rules which are in force at that time. The same was mentioned in the Writ Petition. The learned counsel for the petitioner argued that the observations made by the first respondent in G.O Ms. No. 100 basing on the observations made by the Mandal Revenue Officer-4th respondent was having no basis. In view of the fact, that there is no document available, as such before the first respondent to arrive at a conclusion that 5th respondent is bona fide purchaser or husband of 5th respondent had owned only Ac.1.75 in resultant to that he belongs to a small farmer category.

A reading of the G.O. Ms. No. 100 goes to show that there is no material available, as such, before the first respondent to arrive at a conclusion that the fifth respondent is bonafide purchaser and the oral assertion made by the Mandal Revenue Officer has been recorded and no observation has been borne out from the record as no documents have been referred for arriving on such conclusion. Under the above circumstances, it is observed that the order itself is in violation of principles of natural justice and also the assignment of 5th respondent is confirmed, basing on the reasons, which are not the subject matter of the revision.

Under the above circumstances G.O. Ms.No. 100 Revenue (Assignments IV) Department dated 10.03.1995 is set aside and the

matter is remanded back to the third respondent-Joint Collector, Chittoor to hear the matter afresh after issuing notices to all the parties concerned within a period of three months from the date of receipt of a copy of this order in accordance with law. Till such time the respective parties shall maintain status quo with regard to the possession.

The Writ Petition is accordingly disposed of. No costs.

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09-09-2004

kvrm/tsy

To

1 The Secretary to Govt.,State of A.P. Revenue Dept.
Secretariat Hyderabad
2 The Commissioner of Land Revenue Hyderabad A.P.
3 TheJoint Collector, Chittoor
4 Mandal Revenue Officer, Gangadhara Nellore (M), Chittoor
5. 2 CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT)
6. 2 CD copies